

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-1104578
AND ALL OTHER SEAMAN'S DOCUMENTS
Issued to: Simonne A. ABOUD

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1855

Simonne A. ABOUD

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 4 June 1970, an Examiner of the United States Coast Guard at New York, N.Y., suspended Appellant's seaman's documents for three months on nine months' probation upon finding her guilty of misconduct. the specifications found proved allege that while serving as a waitress on board SS SANTA PAULA under authority of the document above captioned, on or about 29 March 1970, at Port-au-Prince, Haiti, Appellant incited crewmembers to prevent ship's officers from removing one Salinas from the galley, and failed to obey an order of the second steward to leave the area and return to work.

At the hearing, Appellant was represented by professional counsel. Appellant entered a plea of not guilty to the charge and each specification.

The Investigating Officer introduced in evidence the testimony of several witnesses and voyage records of SANTA PAULA.

In defense, Appellant offered in evidence the testimony of witnesses and her own testimony.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and specifications had been proved. the Examiner then entered an order suspending all documents issued to Appellant for a period of three months on nine months' probation.

The entire decision was served on 24 June 1970. Appeal was timely filed on that date. Although Appellant had until 24 November 1970 to perfect the appeal nothing has been submitted since the filing of the original notice.

FINDINGS OF FACT

On 29 March 1970, Appellant was serving as a waitress on board SS SANTA PAULA and acting under authority of her document while the ship was at Port-au-Price, Haiti.

At about 1830 on that date, one Salinas was creating a disturbance in the dishwashing area of the galley. Two ship's officer came to the scene. A crowd gathered. Appellant shouted to the mates, "Don't touch him; he's a good man" and to others, "Go in there and don't let those mates take that man away."

Members of the steward's department intervened and attempted to prevent the removal of Salinas. A scuffle with the mates ensued.

The second steward ordered Appellant to leave the galley and return to work. Appellant did not comply.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is urged that the decision is against the weight of the evidence.

APPEARANCE: Abraham E. Freedman, New York, N.Y., by Martin L. Katz, Esq.

OPINION

I am not impressed by an appeal which states no more than that "the Examiner's decision is contrary to the weight of the evidence" without even a suggestion of the nature of any weakness in the evidence upon which the Examiner relied. A review of the record shows that the Examiner relied on the testimony of participants in and eyewitnesses of the melee. There was nothing inherently incredible in the evidence and it meets the test required of evidence on which findings may be based. Since the evidence is reliable, probative, and substantial, there is no reason to disturb the Examiner's findings, and the order is appropriate.

ORDER

The order of the Examiner dated at New York, N.Y., on 4 June 1970, is Affirmed.

C.R. BENDER
Admiral, U. S. Coast Guard
Commandant

Signed at Washington, D.C., this 17th day of September 1971

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